



[Billing Code: 4810–31–P]

## **DEPARTMENT OF THE TREASURY**

### **Alcohol and Tobacco Tax and Trade Bureau**

#### **27 CFR Part 9**

**[Docket No. TTB–2018–0009; Notice No. 178]**

**RIN: 1513–AC43**

### **Proposed Establishment of the Crest of the Blue Ridge Henderson County Viticultural Area**

**AGENCY:** Alcohol and Tobacco Tax and Trade Bureau, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau (TTB) proposes to establish the approximately 215-square mile “Crest of the Blue Ridge Henderson County” viticultural area in Henderson County, North Carolina. The proposed viticultural area is not located within, nor does it contain, any other established viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. TTB invites comments on this proposed addition to its regulations.

**DATES:** Comments must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Please send your comments on this proposed rule to one of the following addresses:

- *Internet:* <https://www.regulations.gov> (via the online comment form for this proposed rule as posted within Docket No. TTB–2018–0009 at “Regulations.gov,” the Federal e-rulemaking portal);

- *U.S. Mail:* Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW, Box 12, Washington, DC 20005; or

- *Hand delivery/courier in lieu of mail:* Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW, Suite 400, Washington, DC 20005.

See the **Public Participation** section of this proposed rule for specific instructions and requirements for submitting comments, and for information on how to request a public hearing or view or request copies of the petition and supporting materials.

**FOR FURTHER INFORMATION CONTACT:** Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW, Box 12, Washington, DC 20005; phone 202–453–1039, ext. 175.

**SUPPLEMENTARY INFORMATION:**

**Background on Viticultural Areas**

*TTB Authority*

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels

provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120–01, dated December 10, 2013, (superseding Treasury Order 120–01, dated January 24, 2003), to the TTB Administrator to perform the functions and duties in the administration and enforcement of these provisions.

Part 4 of the TTB regulations (27 CFR part 4) authorizes TTB to establish definitive viticultural areas and regulate the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

#### *Definition*

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features, as described in part 9 of the regulations, and a name and a delineated boundary, as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine's geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps

consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

### *Requirements*

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and provides that any interested party may petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for the establishment or modification of AVAs. Petitions to establish an AVA must include the following:

- Evidence that the area within the proposed AVA boundary is nationally or locally known by the AVA name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed AVA;
- A narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed AVA distinctive and distinguish it from adjacent areas outside the proposed AVA boundary;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA, with the boundary of the proposed AVA clearly drawn thereon; and
- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

## **Crest of the Blue Ridge Henderson County Petition**

TTB received a petition from Mark Williams, the executive director of Agribusiness Henderson County, and Barbara Walker, the county extension support specialist for North Carolina Cooperative Extension, on behalf of local grape growers and winemakers, proposing to establish the approximately 215-square mile “Crest of the Blue Ridge Henderson County” AVA. The proposed AVA has 14 commercial vineyards, covering a total of approximately 70 acres. According to the petition, several existing vineyards are planning to expand by a total of 55 additional acres in the next 5 years. In addition, there are two wineries located within the proposed AVA.

According to the petition, the distinguishing features of the proposed Crest of the Blue Ridge Henderson County AVA are its climate and topography—specifically its elevation. Unless otherwise noted, all information and data pertaining to the proposed AVA contained in this proposed rule comes from the petition for the proposed Crest of the Blue Ridge Henderson County AVA and its supporting exhibits.

### *Name Evidence*

The proposed Crest of the Blue Ridge Henderson County AVA straddles the ridgeline that forms the crest of the Blue Ridge Mountains. The ridgeline forming the crest of the Blue Ridge is marked and labeled on eight of the nine U.S.G.S. topographic maps used to form the boundary of the proposed AVA. Because the entire crest covers a multi-State region that is significantly larger than the proposed AVA, the petitioners added “Henderson County” to the

proposed name in order to identify the location of the proposed AVA more specifically. TTB is not requiring the addition of “North Carolina” to the proposed name because TTB is not aware of the crest of the Blue Ridge Mountains running through any other county named Henderson County.

According to the petition, the term “Crest of the Blue Ridge” was first used by Colonel Joseph Pratt, who was the chief of the North Carolina Geological and Economic Survey from 1906 to 1923.<sup>1</sup> In 1910, Pratt proposed creating a scenic road and chain of tourist hotels atop or adjacent to the summit of the Blue Ridge Mountains. Pratt named the project the “Crest of the Blue Ridge Highway.” Several small sections of the road were built, but the start of World War I interrupted the work, and completion was put on hold. In the end, the project was never completed, but the term “Crest of the Blue Ridge” survived and remains in widespread, present-day use to describe areas of the Southern Appalachians, especially in North Carolina.

The petition included examples of current use of the term “Crest of the Blue Ridge” to describe the region of the proposed AVA. Henderson County is also often promoted as the Crest of the Blue Ridge Agricultural Area for its variety of commercial agricultural products. For example, the Henderson County Tourism Development Authority’s “Cheers Trail” publication, which advertises commercial breweries, cideries, and wineries in the county, notes that all the producers on the trail are “located in Henderson County in the Crest of the Blue

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<sup>1</sup> See North Carolina History Project (site last accessed August 27, 2018), <https://northcarolinahistory.org/encyclopedia/blue-ridge-parkway>; see also Mitchell County Historical Society (site last accessed August 27, 2018), <http://mitchellnchistory.org/2016/12/21/crest-blue-ridge-highway-parkway-parkway/>.

Ridge Agricultural Area.”<sup>2</sup> The county also promotes its apple orchards with its Crest of the Blue Ridge Orchard Trail guide.<sup>3</sup> Agribusiness Henderson County, a local non-profit agriculture and agri-tourism advocate, promotes the county’s farm businesses through its Southern Mountain Fresh brand, which states, “Enjoy the freshness of the Crest of the Blue Ridge Mountains and sustain our local heritage.”<sup>4</sup>

Finally, two wineries with vineyards within the proposed AVA use the term “Crest of the Blue Ridge” to describe their locations. Burntshirt Vineyards’ website states that its vineyards occupy “... a unique position with two vineyards on both sides of the Eastern Continental Divide on the Crest of the Blue Ridge.”<sup>5</sup> St. Paul Mountain Vineyards’ website describes its vineyards as being “on the crest of the Blue Ridge in Edneyville.”<sup>6</sup>

### *Boundary Evidence*

The proposed Crest of the Blue Ridge Henderson County AVA is located in Henderson County, North Carolina, and straddles the ridgeline that forms the crest of the Blue Ridge Mountains. To the east and south of the proposed AVA are the low, rolling hills of the Inner Piedmont region. To the west of the proposed AVA are the rugged mountains of the Pisgah National Forest. To the north of the proposed AVA are the Asheville Basin, which is marked by the wide

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<sup>2</sup> Henderson County Tourism Development Authority (site last accessed August 27, 2018), <http://visithendersonvillenc.org/wp-content/uploads/cheers-trail.pdf>.

<sup>3</sup> Henderson County Tourism Development Authority (site last accessed August 27, 2018), <http://visithendersonvillenc.org/wp-content/uploads/crest-br-orchard-trail-1.pdf>.

<sup>4</sup> Agribusiness Henderson County (site last accessed August 27, 2018), <http://southernmountainfresh.com>.

<sup>5</sup> Burntshirt Vineyards (site last accessed August 27, 2018), <http://www.burntshirtvineyards.com/info/vineyards>.

<sup>6</sup> St. Paul Mountain Vineyards (site last accessed August 27, 2018), <http://saintpaulmountainvineyards.com/scripts/historyPg.cfm>.

valley of the French Broad River, and the rugged highlands that surround the basin.

### *Distinguishing Features*

The distinguishing features of the proposed Crest of the Blue Ridge Henderson County AVA are its elevation and climate.

#### Elevation

The petition describes the proposed Crest of the Blue Ridge Henderson County AVA as straddling two physiographic provinces—the Blue Ridge Escarpment and the Blue Ridge Plateau, which are separated by the Eastern Continental Divide, also known as the Crest of the Blue Ridge. To the north of the proposed AVA are two distinct geomorphic regions: the Asheville Basin and a region of higher mountains known informally as the “northern highlands,” which includes the Black Mountain range and Mount Mitchell, the highest point east of the Mississippi River. To the east and south of the proposed AVA is the Inner Piedmont region. West of the proposed AVA are the rugged mountains of the Pisgah National Forest.

The petition included information about the minimum, maximum, and mean elevations of the proposed Crest of the Blue Ridge Henderson County AVA and each of the surrounding regions. That information is summarized in the following table.



<b>Table 1: Elevation</b>			
<b>Region</b>	<b>Elevation Parameters (in feet)</b>		
	<b>Minimum</b>	<b>Maximum</b>	<b>Mean</b>
Proposed AVA	1,394.4	4,396.3	2,361.8
North (Asheville Basin)	1,236.9	3,284.1	2,147.9
North (Highlands)	1,305.8	6,684.0	3,177.8
East	702.1	3,966.5	1,150.9
South	816.9	3,631.9	1,409.5
West	1,958.7	5,715.2	2,769.9

The data in Table 1 shows that the proposed AVA has elevations that are generally lower than those in the region to the west and in the northern highlands region. The regions to the south and east of the proposed AVA, as well as in the Asheville Basin to the north, are generally lower than the proposed AVA.

According to the petition, elevation plays a major role in determining the temperatures, length of growing season, and precipitation within the proposed AVA. In general, regions at high elevations have cooler temperatures and shorter growing seasons than regions at low elevations. Regions at intermediate elevations, such as the proposed AVA, generally have warmer temperatures and longer growing seasons than neighboring regions within higher elevations, and they have cooler temperatures and shorter growing seasons than adjacent lower elevations.

## Climate

The petition for the proposed Crest of the Blue Ridge Henderson County AVA included information on several different climate aspects of the proposed

AVA and surrounding regions, including average growing season temperatures, average length of growing season, growing degree day zones, and precipitation amounts for the proposed AVA and the surrounding regions. The climate data is based on data generated by the Precipitation-elevation Regressions on Independent Slopes Model (PRISM) Climate Group at Oregon State University.<sup>7</sup>

Temperature

First, the petition included information on the average growing season temperatures of the proposed AVA and the surrounding regions. The petition states that a professor at Southern Oregon University used the average growing season temperatures of major wine producing areas of the world to create four major “Climate/Maturity Groupings.”<sup>8</sup> The information was intended to help vineyard owners determine what varieties would ripen the best in their region.<sup>9</sup> Using this system, the petitioners calculated the average growing season temperatures of the proposed AVA and the surrounding regions, as well as the

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<sup>7</sup> PRISM Climate Group, Oregon State University, <http://prism.oregonstate.edu>. Data from the PRISM climate data mapping system was used to calculate the average growing season temperatures for the area within the proposed AVA and areas surrounding the proposed AVA. PRISM is a computerized climate mapping system that estimates climate patterns by using data gathered from weather stations, global positioning systems, and remote sensing technologies, along with other factors such as elevation, longitude, slope angles, and solar aspects. Such “climate normals” are only calculated every 10 years and at the time the petition was submitted, the most recent climate normals available were from the period of 1980–2010. See Christopher Daly and Kirk Bryant, June 2013, “The PRISM Climate and Weather System – An Introduction” (site last accessed August 27, 2018), [http://prism.oregonstate.edu/documents/PRISM\\_history\\_jun2013.pdf](http://prism.oregonstate.edu/documents/PRISM_history_jun2013.pdf); see also Daly et al., February 1994, “A Statistical-Topographic Model for Mapping Climatological Precipitation over Mountainous Terrain” (site last accessed August 27, 2018), [http://prism.oregonstate.edu/documents/pubs/1994jappclim\\_mountainPrecip\\_gibson.pdf](http://prism.oregonstate.edu/documents/pubs/1994jappclim_mountainPrecip_gibson.pdf).

<sup>8</sup> See GuildSomm, Gregory Jones, “Climate Grapes, and Wine – Terroir and the Importance of Climate to Winegrape Production,” August 12, 2015 (site last accessed August 27, 2018), [https://www.guildsomm.com/public\\_content/features/articles/b/gregory\\_jones/posts/climate-grapes-and-wine](https://www.guildsomm.com/public_content/features/articles/b/gregory_jones/posts/climate-grapes-and-wine).

<sup>9</sup> *Id.*

percentage of land within each region that fell into each of the climate/maturity groupings, as summarized in Table 2.

<b>Table 2: Average Growing Season Temperatures (Degrees Fahrenheit)</b>				
<b>Region</b>	<b>Wine Grape Climate/Maturity Groupings</b>			
	<b>Cool (55–59 °F)</b>	<b>Intermediate (59–63 °F)</b>	<b>Warm (63–67 °F)</b>	<b>Hot (67–72 °F)</b>
	<b>Percentage of Each Region in Each Grouping</b>			
Proposed AVA	X	X	94.9	5.1
North (Asheville Basin)	X	1.7	97.0	1.3
North (Highlands)	4.0	66.7	29.3	X
East	X	4.9	13.4	81.7
South	X	X	3.8	96.2
West	5.6	57.2	36.5	0.7

As shown in Table 2, the majority of the proposed Crest of the Blue Ridge Henderson County AVA has average annual growing season temperatures that are in the “Warm” grouping. No portion of the proposed AVA falls into the “Cool” or “Intermediate” groupings. The Asheville Basin region north of the proposed AVA has a larger percentage of land within the “Warm” grouping and also has some land that can be classified in the slightly cooler “Intermediate” grouping. The highlands region north of the proposed AVA and the region to the west of the proposed AVA are both primarily within the “Intermediate” grouping, while the regions to the south and east of the proposed AVA are mainly within the “Hot” grouping. According to the petition, regions in the “Warm” grouping are well-suited for growing grape varieties such as Merlot, Cabernet Franc, and Cabernet

Sauvignon, which are among the most commonly grown grape varieties within the proposed AVA.

#### Growing Season Length<sup>10</sup>

As shown in Tables 3 and 4 below, the petition also included data on the length of the growing season within the proposed Crest of the Blue Ridge Henderson County AVA and the surrounding regions. The petition states that according to a vineyard site study conducted by the Institute for the Application of Geospatial Technologies and Cornell University's College of Agriculture and Life Sciences,<sup>11</sup> regions with growing seasons shorter than 160 days are generally unsuitable for vineyards because the grapes will not have sufficient time to ripen. Locations with growing seasons of 170 to 180 days are considered "satisfactory," while sites with growing seasons of 180 to 190 days are considered "good." Vineyard locations with growing seasons of over 190 days are considered "not limited by growing season" and are generally the most desirable sites.

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<sup>10</sup> The petition defines "growing season length" as the average number of days between the last 28° F temperature in the spring and the first occurrence of this temperature in the fall. The petition states that plant tissues begin to freeze and die at 28° F. See also Institute for the Application of Geospatial Technologies and Cornell University's College of Agriculture and Life Sciences – New York Site Vineyard Elevation Project, Alan N. Lasko and Tim E. Martinson, "The Basics of Vineyard Site Elevation and Selection," (site last accessed August 27, 2018), <http://arcserver2.iagt.org/vll/learnmore.aspx>.

<sup>11</sup> See Lasko, *id.*

Table 3: Growing Season Length										
Region	Growing Season Length in Days									
	140– 150	150– 160	160– 170	170– 180	180– 190	190– 200	200– 210	210– 220	220– 230	230– 240
	Percentage of Each Region in Each Category									
Proposed AVA	X	X	X	0.1	0.7	6.2	32.7	59.7	0.6	X
North (Asheville Basin)	X	X	X	X	X	0.1	13.5	82.8	3.6	X
North (Highlands)	0.2	0.9	2.0	5.0	21.3	27.4	40.5	2.7	X	X
East	X	X	X	0.2	0.6	2.4	5.9	13.0	41.6	36.3
South	X	X	X	X	X	0.4	1.7	2.7	16.9	78.3
West	X	1.1	3.9	7.9	17.5	26.4	29.5	13.3	0.4	X

Table 4: Mean Growing Season Length	
Region	Growing Season Length (Days)
Proposed AVA	209
North (Asheville Basin)	213
North (Highlands)	197
East	225
South	231
West	196

The data in Tables 3 and 4 shows that the proposed Crest of the Blue Ridge Henderson County AVA has a growing season that is longer than the northern highlands region and the region to the west of the proposed AVA and shorter than the Asheville Basin region and the regions to the east and south. The petition notes that although the majority of land within the proposed AVA has a growing season of between 210 and 220 days, there is also a large percentage

of land with a growing season length between 200 and 210 days, and a small percentage of land with a growing season length of between 170 and 190 days.

As a result, the proposed AVA can support some early-ripening varietals of grapes, as well as varietals that require longer growing seasons.

#### Growing Degree Day Zones

As shown in Table 5 below, the petition also included an analysis of the growing degree day (GDD) zones<sup>12, 13</sup> within the proposed AVA and the surrounding regions. GDD zones range from Zone I (coolest) to Zone V (warmest).

<b>Table 5: Growing Degree Day Regions</b>					
<b>Region</b>	<b>Growing Degree Day Regions</b>				
	<b>Zone I</b>	<b>Zone II</b>	<b>Zone III</b>	<b>Zone IV</b>	<b>Zone V</b>
	<b>Percentage of Occurrence in Each Location</b>				
Proposed AVA	1.3	18.1	77.5	3.1	X
North (Asheville Basin)	X	6.6	89.7	3.7	X
North (Highlands)	43.6	46.2	10.1	0.1	X
East	2.3	6.0	11.0	34.0	46.7
South	X	0.9	2.8	4.0	92.3
West	46.6	36.6	16.0	0.7	0.1

As shown in Table 5, most of the proposed Crest of the Blue Ridge Henderson County AVA is classified as Zone III with GDD accumulations of

<sup>12</sup> See Albert J. Winkler, *General Viticulture* (Berkeley: University of California Press, 1974), pages 61–64. In the Winkler climate classification system, annual heat accumulation during the growing season, measured in annual GDDs, defines climatic regions. One GDD accumulates for each degree Fahrenheit that a day's mean temperature is above 50 degrees F, the minimum temperature required for grapevine growth.

<sup>13</sup> *Id.* In the Winkler scale, the GDD regions are defined as follows: Region I = less than 2,500 GDDs; Region II = 2,501–3,000 GDDs; Region III = 3,001–3,500 GDDs; Region IV = 3,501–4,000 GDDs; Region V = greater than 4,000 GDDs.

between 3,001 and 3,500. The data supports the petition's assertion that the proposed AVA has a long, warm growing season that is cooler than the regions to the south and east of the Asheville Basin and warmer than the region to the west and the northern highlands region. The petition states that the two primary GDD zones found within the proposed AVA are suitable for growing both cooler-climate grapes such as Cabernet Sauvignon and Cabernet Franc as well as warmer-climate grapes such as Sauvignon Blanc and Syrah.

#### Precipitation

Finally, the petition included information on the mean annual, growing season, and winter precipitation amounts for the proposed AVA and the surrounding regions for the period from 1980–2010. According to the petition, within the region of the proposed AVA, air moving inland from the southeastern Atlantic Ocean and the Gulf of Mexico drops its moisture along the mountainous elevations of the Blue Ridge Escarpment and the Eastern Continental Divide. As a result, precipitation amounts decrease as one moves from southeast to northwest through the region. Sufficient annual precipitation amounts are important to prevent vines from experiencing excessive heat and water stress.

The data shown below in Table 6 demonstrates that the proposed Crest of the Blue Ridge Henderson County AVA generally has higher mean annual precipitation amounts than the regions to the north and lower mean annual precipitation amounts than the regions to the east and south, which are within the Blue Ridge Escarpment. Although the data also suggests that the region to the west of the proposed AVA also has higher annual precipitation amounts than the

proposed AVA, Figure 18 of the petition shows that the higher rainfall amounts are actually in the region to the southwest of the proposed AVA, where moist air from the Gulf of Mexico encounters high elevations, rather than in the region due west of the proposed AVA, which is in the rain shadow of the Eastern Continental Divide.

<b>Table 6: Mean Annual Precipitation in Inches</b>			
<b>Region</b>	<b>Minimum</b>	<b>Maximum</b>	<b>Mean</b>
Proposed AVA	45.1	70.8	57.5
North (Asheville Basin)	36.4	50.5	42.6
North (Highlands)	37.9	72.3	50.7
East	46.6	75.4	60.3
South	45.9	82.4	60.2
West	37.1	93.5	62.8

The petition states that is also important to consider the timing of the rainfall. For example, the petition states that during the growing season, excessive rainfall can cause excess vine and leaf growth, promote fungal disease, and attract insects, while too little rainfall can stress the vines and lead to reduced photosynthesis, cell desiccation, and potential death of the vines. The petition also cites a study that found that the recommended growing season precipitation amount for vineyards in North Carolina is between 24 and 30 inches.<sup>14</sup> The data shown below in Table 7 demonstrates that the mean minimum growing season precipitation amount within the proposed AVA meets

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<sup>14</sup> Poling, E.B., 2006, ed., The North Carolina Winegrape Growers Guide: North Carolina State University, Department of Horticultural Sciences, page 41.



the minimum recommended amount. The mean growing season amount slightly exceeds the recommended precipitation amount.

<b>Table 7: Mean Growing Season Precipitation in Inches</b>			
<b>Region</b>	<b>Minimum</b>	<b>Maximum</b>	<b>Mean</b>
Proposed AVA	27.1	40.9	33.2
North (Asheville Basin)	21.5	31.2	24.5
North (Highlands)	22.2	42.3	28.7
East	27.0	43.7	30.2
South	25.0	47.1	29.7
West	21.9	51.0	34.4

Finally, the petition states that it is also important to consider the winter precipitation amounts. Excessive precipitation during December, January, and February can delay bud break and vineyard pruning, leading to a later harvest date and an increased risk that grapes will still be on the vine when the first fall frost occurs. The data listed in Table 8 below shows that the proposed AVA has a mean winter precipitation amount of 13.9 inches, which is between the lower amounts of the regions to the north, east, and south and the higher amount of the region to the west.

<b>Table 8: Mean Winter Precipitation in Inches</b>			
<b>Region</b>	<b>Minimum</b>	<b>Maximum</b>	<b>Mean</b>
Proposed AVA	10.6	17.6	13.9
North (Asheville Basin)	8.4	12.0	9.7
North (Highlands)	8.9	18.6	11.7
East	10.9	18.7	12.5
South	12.0	20.9	13.4

West	8.9	24.5	16.0
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### *Summary of Distinguishing Features*

In summary, the evidence provided in the petition indicates that the elevation and climate of the proposed Crest of the Blue Ridge Henderson County AVA distinguish it from the surrounding regions in each direction. The proposed AVA has elevations that are generally higher than those of the regions to the south and east and in the Asheville Basin to the north, and lower than those of the northern highlands region and the region to the west. The proposed AVA also has a moderate climate that slightly differs from the climate in the Asheville Basin to the north, is cooler than the regions to the south and east and warmer than the region to the west and the northern highlands. Finally, annual precipitation amounts in the proposed AVA are generally lower than amounts in the regions to the south, west, and east and higher amounts than the highlands and Asheville Basin regions to the north.

### **TTB Determination**

TTB concludes that the petition to establish the approximately 215-square mile Crest of the Blue Ridge Henderson County AVA merits consideration and public comment, as invited in this proposed rule.

### **Boundary Description**

See the narrative description of the boundary of the petitioned-for AVA in the proposed regulatory text published at the end of this proposed rule.

## **Maps**

The petitioner provided the required maps, and they are listed below in the proposed regulatory text.

## **Impact on Current Wine Labels**

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in § 4.25(e)(3) of the TTB regulations (27 CFR 4.25(e)(3)). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See § 4.39(i)(2) of the TTB regulations (27 CFR 4.39(i)(2)) for details.

If TTB establishes this proposed AVA, its name, "Crest of the Blue Ridge Henderson County," will be recognized as a name of viticultural significance under § 4.39(i)(3) of the TTB regulations (27 CFR 4.39(i)(3)). The text of the proposed regulation clarifies this point. Consequently, if this proposed rule is adopted as a final rule, wine bottlers using the name "Crest of the Blue Ridge Henderson County" in a brand name, including a trademark, or in another label

reference as to the origin of the wine, would have to ensure that the product is eligible to use the AVA name as an appellation of origin. TTB is not proposing to designate either “Crest of the Blue Ridge,” standing alone, or “Blue Ridge,” standing alone, as terms of viticultural significance because the Blue Ridge Mountains and the ridgeline that forms the crest of the mountains both cover a multi-State area that is significantly larger than the region of the proposed AVA, which is located entirely within Henderson County, North Carolina. Therefore, wine bottlers using either “Crest of the Blue Ridge,” standing alone, or “Blue Ridge,” standing alone, in a brand name or in another label reference on their wines would not be affected by the establishment of this proposed AVA.

## **Public Participation**

### *Comments Invited*

TTB invites comments from interested members of the public on whether it should establish the proposed AVA. TTB is also interested in receiving comments on the sufficiency and accuracy of the name, boundary, soils, climate, and other required information submitted in support of the petition. Please provide any available specific information in support of your comments.

Because of the potential impact of the establishment of the proposed Crest of the Blue Ridge Henderson County AVA on wine labels that include the term “Crest of the Blue Ridge Henderson County,” as discussed above under **Impact on Current Wine Labels**, TTB is particularly interested in comments regarding whether there will be a conflict between the proposed area name and currently used brand names. If a commenter believes that a conflict will arise,

the comment should describe the nature of that conflict, including any anticipated negative economic impact that approval of the proposed AVA will have on an existing viticultural enterprise. TTB is also interested in receiving suggestions for ways to avoid conflicts, for example, by adopting a modified or different name for the AVA.

### *Submitting Comments*

You may submit comments on this proposed rule by using one of the following three methods (please note that TTB has a new address for comments submitted by U.S. Mail):

- *Federal e-Rulemaking Portal:* You may send comments via the online comment form posted with this proposed rule within Docket No. TTB–2018–0009 on “Regulations.gov,” the Federal e-rulemaking portal, at <https://www.regulations.gov>. A direct link to that docket is available under Notice No. 178 on the TTB Web site at <https://www.ttb.gov/wine/wine-rulemaking.shtml>. Supplemental files may be attached to comments submitted via Regulations.gov. For complete instructions on how to use Regulations.gov, visit the site and click on the “Help” tab.

- *U.S. Mail:* You may send comments via postal mail to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW, Box 12, Washington, DC 20005.

- *Hand Delivery/Courier:* You may hand-carry your comments or have them hand-carried to the Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW, Suite 400, Washington, DC 20005.

Please submit your comments by the closing date shown above in this proposed rule. Your comments must reference Notice No. 178 and include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. TTB does not acknowledge receipt of comments, and TTB considers all comments as originals.

In your comment, please clearly indicate if you are commenting on your own behalf or on behalf of an association, business, or other entity. If you are commenting on behalf of an entity, your comment must include the entity's name, as well as your name and position title. If you comment via Regulations.gov, please enter the entity's name in the "Organization" blank of the online comment form. If you comment via postal mail or hand delivery/courier, please submit your entity's comment on letterhead.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

#### *Confidentiality*

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

#### *Public Disclosure*

TTB will post, and you may view, copies of this proposed rule, selected supporting materials, and any online or mailed comments received about this

proposal within Docket No. TTB–2018–0009 on the Federal e-rulemaking portal, Regulations.gov, at <https://www.regulations.gov>. A direct link to that docket is available on the TTB Web site at <https://www.ttb.gov/wine/wine-rulemaking.shtml> under Notice No. 178. You may also reach the relevant docket through the Regulations.gov search page at <https://www.regulations.gov>. For information on how to use Regulations.gov, click on the site’s “Help” tab.

All posted comments will display the commenter’s name, organization (if any), city, and State, and, in the case of mailed comments, all address information, including e-mail addresses. TTB may omit voluminous attachments or material that the Bureau considers unsuitable for posting.

You may also view copies of this proposed rule, all related petitions, maps and other supporting materials, and any electronic or mailed comments that TTB receives about this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW, Washington, DC 20005. You may also obtain copies at 20 cents per 8.5- x 11-inch page. Please note that TTB is unable to provide copies of USGS maps or any similarly-sized documents that may be included as part of the AVA petition. Contact TTB’s Regulations and Rulings Division at the above address, by e-mail at [https://www.ttb.gov/webforms/contact\\_RRD.shtm](https://www.ttb.gov/webforms/contact_RRD.shtm), or by telephone at 202–453–1039, ext. 175, to schedule an appointment or to request copies of comments or other materials.

### **Regulatory Flexibility Act**

TTB certifies that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The

proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of an AVA name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

#### **Executive Order 12866**

It has been determined that this proposed rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993. Therefore, no regulatory assessment is required.

#### **Drafting Information**

Karen A. Thornton of the Regulations and Rulings Division drafted this proposed rule.

#### **List of Subjects in 27 CFR Part 9**

Wine.

#### **Proposed Regulatory Amendment**

For the reasons discussed in the preamble, TTB proposes to amend title 27, chapter I, part 9, Code of Federal Regulations, as follows:

#### **PART 9—AMERICAN VITICULTURAL AREAS**

1. The authority citation for part 9 continues to read as follows:

**Authority:** 27 U.S.C. 205.

#### **Subpart C—Approved American Viticultural Areas**

2. Subpart C is amended by adding § 9.\_\_\_\_ to read as follows:

**§ 9.\_\_\_\_ Crest of the Blue Ridge Henderson County.**



(a) *Name*. The name of the viticultural area described in this section is “Crest of the Blue Ridge Henderson County”. For purposes of part 4 of this chapter, “Crest of the Blue Ridge Henderson County” is a term of viticultural significance.

(b) *Approved maps*. The nine United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the Crest of the Blue Ridge Henderson County viticultural area are titled:

- (1) Black Mountain, North Carolina, 1941; photorevised 1978;
- (2) Bat Cave, North Carolina, 1997;
- (3) Clifffield Mountain, North Carolina, 1946; photorevised 1991;
- (4) Saluda, North Carolina–South Carolina, 1983 (provisional edition);
- (5) Zirconia, North Carolina–South Carolina, 1997;
- (6) Standingstone Mountain, South Carolina–North Carolina, 1997;
- (7) Horse Shoe, North Carolina, 1997;
- (8) Hendersonville, North Carolina, 1997; and
- (9) Fruitland, North Carolina, 1997.

(c) *Boundary*. The Crest of the Blue Ridge Henderson County viticultural area is located in Henderson County, North Carolina. The boundary of the Crest of the Blue Ridge Henderson County viticultural area is as described below:

- (1) The beginning point is on the Black Mountain map at the 4,412-foot elevation marker atop Little Pisgah Mountain, along the shared Buncombe–Henderson county line. From the beginning point, proceed southeast along the shared Buncombe–Henderson county line approximately 4.4 miles, crossing onto

the Bat Cave map, to the intersection of the Buncombe–Henderson county line with the shared Henderson–Rutherford county line; then

(2) Proceed southerly along the shared Henderson–Rutherford county line approximately 5.1 miles to its intersection with the Polk county line; then

(3) Proceed southwest along the shared Henderson–Polk county line approximately 14.9 miles, crossing over the Clifffield Mountain map and onto the Saluda map, to its intersection with the North Carolina–South Carolina border; then

(4) Proceed westerly along the North Carolina–South Carolina border approximately 8.1 miles, crossing onto the Zirconia map, to the 3,058-foot elevation marker atop Big Top Mountain; then

(5) Proceed northwest in a straight line approximately 2.0 miles, crossing onto the Standingstone Mountain map, to the center of the highest closing contour atop Maybin Mountain; then

(6) Proceed northeast in a straight line approximately 2.2 miles, crossing back onto the Zirconia map, to the intersection of an unnamed road, known locally as County Road 1113/Maybin Road, with Mountain Valley Road, also known as County Road 1109/Cabin Creek Road; then

(7) Proceed northwest along Mountain Valley Road/County Road 1109/Cabin Creek Road approximately 1.3 miles, crossing back onto the Standingstone Mountain map, to its intersection with Pinnacle Mountain Road; then

(8) Proceed northwest in a straight line approximately 1.0 mile to the intersection of Little Cove Creek with the 2,800-foot elevation contour; then

(9) Proceed westerly along the 2,800-foot elevation contour approximately 2.4 miles to its intersection with an unnamed creek on the north slope of Stone Mountain that flows north into Jeffers Lake; then

(10) Proceed southwest in a straight line approximately 2.0 miles to the intersection of the shared Henderson–Transylvania county line with the Dupont State Forest boundary atop Hickory Mountain; then

(11) Proceed northeast along the Henderson–Transylvania county line approximately 2.6 miles, crossing onto the Horse Shoe map, to its intersection with an unnamed road, known locally as Clipper Lane, on the hilltop above the Sentell Cemetery; then

(12) Proceed northeast in a straight line approximately 1.6 miles to the center of the highest closing contour atop Jeter Mountain; then

(13) Proceed southeast in a straight line approximately 1.3 miles to the center of the highest closing contour atop Evans mountain; then

(14) Proceed northeast in a straight line approximately 2.0 miles to the center of the highest closing contour atop Wolf Mountain; then

(15) Proceed northeast in a straight line approximately 1.2 miles to the center of the highest closing contour atop Drake Mountain; then

(16) Proceed northwest in a straight line approximately 0.7 mile to the center of the highest closing contour atop Cantrell Mountain; then

(17) Proceed northeast in a straight line approximately 3.3 miles to the 2,618-foot elevation marker on the northeast slope of Long John Mountain; then

(18) Proceed northeast in a straight line approximately 1.4 miles, crossing onto the Hendersonville map, to the center of the highest closing contour atop Stoney Mountain; then

(19) Proceed northeast in a straight line approximately 0.6 mile to the intersection of Brookside Camp Road with Dixie Highway; then

(20) Proceed northeast along Brookside Camp Road approximately 2.1 miles, crossing onto the Fruitland map, to its intersection with Locust Grove Road; then

(21) Proceed northeast along Locust Grove Road approximately 1.4 miles to its intersection with an unnamed trail near Locust Grove Church; then

(22) Proceed northeast in a straight line approximately 0.7 mile to the 3,442-foot elevation marker atop Rich Mountain; then

(23) Proceed northwest in a straight line approximately 0.4 mile to the intersection of Southern Leveston Road with an unnamed jeep trail; then

(24) Proceed northwest along Southern Leveston Road approximately 2.4 miles to its intersection with Hoopers Creek Road; then

(25) Proceed northeast in a straight line approximately 0.7 mile to the 2,983-foot elevation marker labeled Edneyville-5 atop a peak on Burney Mountain along the shared Henderson–Buncombe county line; then

(26) Proceed northeast along the Henderson–Buncombe county line approximately 8.2 miles, crossing onto the Black Mountain map, and return to the beginning point atop Little Pisgah Mountain.

Signed: September 19, 2018.

**John J. Manfreda,**

*Administrator.*

Approved: November 13, 2018.

**Timothy E. Skud,**

*Deputy Assistant Secretary  
(Tax, Trade, and Tariff Policy).*

[FR Doc. 2018-26323 Filed: 12/4/2018 8:45 am; Publication Date: 12/6/2018]